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## INTERNATIONAL BUREAU SEEKS INPUT ON REVIEW OF THE INTERNATIONAL TELECOMMUNICATION UNION'S INTERNATIONAL TELECOMMUNICATION REGULATIONS

IB Docket No. 10-67

**Comment Date: May 3, 2010**

The International Bureau of the Federal Communications Commission (FCC) seeks input from stakeholders and other interested parties to help develop its recommendations to the U.S. Department of State for U.S. proposals and positions concerning possible revisions to the International Telecommunication Regulations (ITRs), a treaty instrument of the International Telecommunication Union (ITU). The ITU has been reviewing the ITRs for the past several years and is planning to hold a World Conference on International Telecommunications (WCIT) to revise the treaty in 2012.

The FCC serves as a technical advisor to the Department of State for ITU meetings and conferences, including the upcoming WCIT and international meetings to prepare for the WCIT. In that role, the FCC provides expert advice and recommendations to the Department of State on U.S. proposals and positions. To assist the FCC in its role as technical advisor, the International Bureau seeks input from stakeholders and other interested parties regarding the impact of possible revisions to the ITRs on FCC rules and policies, companies providing international telecommunications services, and consumers of those services.

### Background

The current ITRs were adopted in 1988 in Melbourne and appear in the Final Acts of the World Administrative Telegraph and Telephone Conference (WATTC-88). The ITRs comprise a Preamble, ten Articles, three Appendices, and a Final Protocol. The ten Articles of the ITRs are:

- Article 1, Purpose and Scope of the Regulations;
- Article 2, Definitions;
- Article 3, International Networks;
- Article 4, International Telecommunication Services;
- Article 5, Safety of Life and Priority of Telecommunications;
- Article 6, Charging and Accounting;
- Article 7, Suspension of Services;

- Article 8, Dissemination of Information;
- Article 9, Special Arrangements; and
- Article 10, Final Provisions.<sup>1</sup>

The provisions of the current ITRs which most directly overlap with FCC rules and policies are Articles 6 and 9 and Appendix 1, which address the settlement of international traffic. The FCC rules governing the settlement of international traffic by U.S. carriers are in 47 CFR § 64.1002 and a description of the FCC's policy in this area can be found in the 2004 *International Settlements Policy Reform: International Settlement Rates Order*.<sup>2</sup> The provisions in ITR Article 6 include: collection charges (including taxation of revenues from international telecommunication services); accounting rates; monetary unit; and establishment of accounts and settlement of balances of accounts. Appendix 1 contains detailed provisions governing the establishment of settlement rates, settling of accounts, and payment procedures. Article 9 addresses the circumstances under which parties may enter special arrangements for exchanging and settling international traffic.

Although Article 6 and Appendix 1 were drafted to allow for the possibility of arbitrage (Article 6.1.1) associated with competitive markets, they are essentially meant for an environment where services are provided jointly by operators that share revenues based on bilaterally agreed accounting rate agreements. The FCC's rules allow for, and in fact, encourage carriers to enter into market-based arrangements for settling traffic. According to the most recent statistics available, during 2008 only approximately 6% of the international telephone traffic billed in the United States was settled following provisions outlined in Article 6 of the ITRs, compared to 86% during 1998.<sup>3</sup> The overwhelming majority of traffic was settled under market-based arrangements.

### Proposals to Revise the ITRs

With increased market liberalization and a move away from monopoly provision of international services, many Members of the ITU began to question within a decade of the adoption of the ITRs whether they should be updated. After three rounds of review initiated by the ITU's Plenipotentiary Conferences in 1998, 2002, and 2006, there are many proposals being considered for revising the ITRs. ITU Member States have advanced arguments in support of leaving the ITRs unchanged, abrogating the ITRs and moving certain provisions to other instruments of the ITU, and addressing new policy and regulatory issues in a new version of the ITRs. Proposed new policy and regulatory issues to be included in a new version of the ITRs include limiting the use of alternative calling procedures (*i.e.*, callback and third party routing); adding a mechanism

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<sup>1</sup> An electronic copy of the ITRs can be found on the ITU's website at <http://www.itu.int/councilgroups/cwg-wcit12>.

<sup>2</sup> IB Docket Nos. 02-324 and 96-21, First Report and Order, FCC 04-53 (rel. March 30, 2004).

<sup>3</sup> See United States Federal Communications Commission, 2007 International Telephone Traffic Report. The report can be downloaded at [www.fcc.gov/ib](http://www.fcc.gov/ib).

for dispute resolution; adding provisions to enhance cybersecurity and combat spam; adding regulations concerning Internet governance, including naming, numbering, and addressing; and expanding the definition of prohibited fraud and misuse of facilities.<sup>4</sup>

### Comment Sought

The various proposals to revise the ITRs will be considered in a preparatory process established by the ITU, leading up to a WCIT that is expected to take place in 2012. The date of the WCIT has not yet been established.

The International Bureau seeks input from stakeholders and other interested parties on the various proposals to revise the ITRs under discussion at the ITU. In particular, we seek comment on whether proposals to revise the current provisions of the ITRs and to add provisions addressing new issues are consistent with FCC policies, rules and regulations, and in particular, what the impact of the proposals would be on consumers and communications companies. We also seek comment on whether the current version of the ITRs accurately reflects business practices and is consistent with FCC policies, rules and regulations. In particular, we seek input from interested parties on whether Article 6 and Appendix 1, addressing charging and accounting for international traffic, and Article 9, addressing special arrangements, are consistent with FCC rules governing settlement of international traffic and reflect current business practices.<sup>5</sup> We also seek comment on whether there is a need for a treaty like the ITRs and, if so, what issues the treaty should cover.

The deadline for comments is May 3, 2010. All comments should refer to IB Docket No. 10-67. Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) by filing paper copies.<sup>6</sup> Only one copy of an electronic submission must be filed.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing.

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<sup>4</sup> Background documents related to the ITU's review of the ITRs, including proposals to revise the ITRs and summaries of ITU meetings, may be found at <http://www.itu.int/councilgroups/cwg-wcit12>.

<sup>5</sup> See, *International Settlements Policy Reform: International Settlement Rates*, IB Docket Nos. 02-324 and 96-21, First Report and Order, FCC 04-53 (rel. March 30, 2004) and 47 CFR § 64.1002.

<sup>6</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.

Additionally, filers must deliver courtesy copies by email to the following Commission staff: Kathryn O'Brien, at [kathryn.obrien@fcc.gov](mailto:kathryn.obrien@fcc.gov)

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